

Remarks

This application has been carefully reviewed in light of the Office Action mailed May 16, 2008. At the time of the Office Action, claims 1-28 were pending in the application. In the Office Action, the Examiner rejected claims 1-28 and objected to claim 8. By this Amendment, Applicants have amended claims 1 and 28 and cancelled claims 7, 8 and 23-27 to clarify the subject matter which the Applicants claim as the invention and to advance prosecution of this case. No new matter has been introduced by these amendments. Applicants do not admit that these amendments were necessary as a result of any cited art. Applicants respectfully request reconsideration of the above application in view of the following remarks.

Claim 8 stands objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Without waiver or acquiescence, Applicants have cancelled claim 8 to obviate this objection. Therefore, Applicants respectfully request the withdrawal of this objection.

Claims 1-4 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,578,797 (*Hewitt et al.*). Applicants traverse this rejection because pending claims 1-4 and 6 are not anticipated by *Hewitt et al.* Claims 1-4 and 6 recite that "the incentive identifying information is information other than any incentive code." *Hewitt et al.* fails to teach or suggest this limitation. For at least this reason, claims 1-4 and 6 are patentable over *Hewitt et al.*, and therefore, Applicants respectfully request the Examiner to withdraw this rejection.

Claims 5 and 23-27 stand rejected under 35 U.S.C. § 103(a) as being obvious over the proposed combination of *Hewitt et al.* and the knowledge of one skilled in the art. Without waiver or acquiescence, Applicants have cancelled claims 23-27. Pending claim 5 depends from claim 1, which recites that "the incentive identifying information is information other than any incentive code." *Hewitt et al.* fails to teach or suggest this limitation. For at least this reason, claim 5 is patentable over *Hewitt et al.* and the knowledge of one skilled in the art. In light of the foregoing, Applicants request the withdrawal of this rejection.

Claims 4, 8, 15 and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over the proposed combination of *Hewitt et al.* and the Ishida AC-3000 Series brochure, 6 pages (*Ishida*). Without waiver or acquiescence, Applicants have cancelled claims 8 and 26. Pending claim 4 depends from claim 1, which recites that "the incentive identifying information is information other than any incentive code." *Hewitt et al.* and/or *Ishida* does not teach or suggest this limitation. Pending claim 15 depends from claim 9, which recites that "the incentive identifying information is incentive code free." *Hewitt et al.* and/or *Ishida* does not teach or suggest this limitation. In light of the foregoing, Applicants request the withdrawal of this rejection.

Claims 7, 9-14, 16-22 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hewitt et al.* and U.S. Pat. Pub. No. 2002/0178060 (*Sheehan*). Applicants respectfully traverse this rejection because the proposed combination fails to teach or suggest the pending claims. Pending claim 1, which includes the limitations of original claim 7, recites that "the computerized checkout system automatically applies an appropriate price adjustment when a customer presents both the weighed item and the incentive item at checkout by reading of both the product code for the weighed item and a product code for the incentive item." The Examiner admits that *Hewitt et al.* does not teach this limitation. Rather, the Examiner provides that "*Sheehan* however teaches the concept of electronic coupons which are associated with an identifier. In this manner, only the parent identifier need be scanned/entered at the POS and the associated coupons can be identified." (Office Action, p. 6.)

Applicants disagree with the Examiner's arguments in support of the obviousness of claim 1. At best, *Sheehan* discloses the general concept that "[e]lectronic coupons also save time at the time of checkout and reduce the possibility of error[.]" ¶ [0021]. *Sheehan* provides that "one check of a centralized database (performed, perhaps, during a credit check) would allow all appropriate electronic coupons to be processed." *Id.* *Sheehan* does not provide an enabling disclosure as to how electronic coupons would be processed at checkout, other than checking a centralized database during a credit check. In light of the teachings of *Sheehan*, a skilled artisan would have to engage in undue experimentation to yield the claimed computerized checkout system, which recites a specific, non-obvious way of automatically applying an

appropriate price adjustment. For at least this reason, claim 1 (and depending claims 2-6) are patentable in light of the proposed combination.

Claim 9 recites that "the computerized checkout system automatically applies an appropriate price adjustment when a customer presents both the weighed item and the incentive item at checkout as determined by input of both the product code for the weighed item and a product code for the incentive item." The Examiner admits that *Hewitt et al.* does not teach this limitation. Rather, the Examiner provides that "*Sheehan* however teaches the concept of electronic coupons which are associated with an identifier. In this manner, only the parent identifier need be scanned/entered at the POS and the associated coupons can be identified." (Office Action, p. 6.)

Applicants disagree with the Examiner's arguments in support of the obviousness of claim 9. At best, *Sheehan* discloses the general concept that "[e]lectronic coupons also save time at the time of checkout and reduce the possibility of error[.]" ¶ [0021]. *Sheehan* provides that "one check of a centralized database (performed, perhaps, during a credit check) would allow all appropriate electronic coupons to be processed." *Id.* *Sheehan* does not provide an enabling disclosure as to how electronic coupons would be processed at checkout, other than checking a centralized database during a credit check. In light of the teachings of *Sheehan*, a skilled artisan would have to engage in undue experimentation to yield the claimed computerized checkout system, which recites a specific, non-obvious way of automatically applying an appropriate price adjustment. For at least this reason, claim 9 (and depending claims 10-15) are patentable in light of the proposed combination.

Claim 16 recites that "the computerized checkout system automatically applies an appropriate price adjustment when a customer presents both the packaged, random weight food product and the incentive item at checkout as determined by input of both the store-selected product code for the packaged, random weight food product and a product code for the incentive item." The Examiner admits that *Hewitt et al.* does not teach this limitation. Rather, the Examiner provides that "*Sheehan* however teaches the concept of electronic coupons which are

associated with an identifier. In this manner, only the parent identifier need be scanned/entered at the POS and the associated coupons can be identified." (Office Action, p. 6.)

Applicants disagree with the Examiner's arguments in support of the obviousness of claim 16. At best, *Sheehan* discloses the general concept that "[e]lectronic coupons also save time at the time of checkout and reduce the possibility of error[.]" ¶ [0021]. *Sheehan* provides that "one check of a centralized database (performed, perhaps, during a credit check) would allow all appropriate electronic coupons to be processed." *Id.* *Sheehan* does not provide an enabling disclosure as to how electronic coupons would be processed at checkout, other than checking a centralized database during a credit check. In light of the teachings of *Sheehan*, a skilled artisan would have to engage in undue experimentation to yield the claimed computerized checkout system, which recites a specific, non-obvious way of automatically applying an appropriate price adjustment. For at least this reason, claim 16 (and depending claim 17) are patentable in light of the proposed combination.

Claim 18 recites that "the computerized checkout system applies an appropriate price adjustment when each of (i) product code of at least one of the incentive items and (ii) the incentive code are read by the code reader during a customer checkout transaction, where the computerized checkout system utilizes the incentive code to identify the plurality of incentive items and to determine which of the plurality of incentive items was included in the customer checkout transaction." The Examiner admits that *Hewitt et al.* does not teach this limitation. Rather, the Examiner provides that "*Sheehan* however teaches the concept of electronic coupons which are associated with an identifier. In this manner, only the parent identifier need be scanned/entered at the POS and the associated coupons can be identified." (Office Action, p. 6.)

The Examiner also presents the following argument in support of the obviousness of the rejected claims:

It would have been obvious to one of ordinary skill at the time of the invention to have used any scannable code (such as the originating identifier for the weighed product, or a single incentive barcode) as a means to identify any number of related child coupons (cream cheese, etc) associated with the originating

qualifying product (bagels). In this manner, customers do not have to be bothered by tearing the perforated coupon, collecting, holding and managing the coupons. Further, redemption is made easier when the child coupons are identified simply by scanning each individually collected paper/label coupon.

(Office Action, p. 7.)

Applicants disagree with the Examiner's arguments in support of the obviousness of claim 18. At best, *Sheehan* discloses the general concept that "[e]lectronic coupons also save time at the time of checkout and reduce the possibility of error[.]" ¶ [0021]. *Sheehan* provides that "one check of a centralized database (performed, perhaps, during a credit check) would allow all appropriate electronic coupons to be processed." *Id.* *Sheehan* does not provide an enabling disclosure as to how electronic coupons would be processed at checkout, other than checking a centralized database during a credit check. In light of the teachings of *Sheehan*, a skilled artisan would have to engage in undue experimentation to yield the claimed computerized checkout system, which recites a specific, non-obvious way of automatically applying an appropriate price adjustment by using a "single incentive code to identify [a] ... plurality of incentive items and to determine which of the plurality of incentive items was included in the customer checkout transaction." For at least this reason, claim 18 (and depending claims 19 and 20) are patentable in light of the proposed combination.

Claim 21 recites that "the computerized checkout system applies an appropriate price adjustment when each of (i) the weighed item product code, (ii) a product code of at least one of the incentive items and (iii) the incentive code are read by the code reader during a customer checkout transaction, where the computerized checkout system utilizes the incentive code to identify the plurality of incentive items and to determine which of the plurality of incentive items was included in the customer checkout transaction." Applicants traverse the Examiner's arguments in support of the obviousness of claim 21. *Sheehan* does not disclose or suggest applying price adjustments by reading the three claimed codes: (i) a weighed item product code, (ii) a product code of at least one of the incentive items and (iii) an incentive code. The Examiner's alleged teachings of one skilled in the art fail to make up for this deficiency. The Examiner posits that "[i]t would have been obvious to one of ordinary skill at the time of the

invention to have used any scannable code (such as the originating identifier for the weighed product, or a single incentive barcode) as a means to identify any number of related child coupons (cream cheese, etc) associated with the originating qualifying product (bagels)." (Office Action, p. 7, emphasis added.) The Examiner posits that a single incentive code is beneficial, and was known to one of ordinary skill in the art at the time the claimed invention was made. Even if this statement is supported by facts, claim 21 requires the reading of three codes. For at least this reason, claim 21 is patentable in light of the proposed combination.

Claim 22 recites that "the computerized checkout system [has] ... access to an incentive database that links the incentive code to the multiple incentive items." At best, *Sheehan* discloses the general concept that "[e]lectronic coupons also save time at the time of checkout and reduce the possibility of error[.]" ¶ [0021]. *Sheehan* provides that "one check of a centralized database (performed, perhaps, during a credit check) would allow all appropriate electronic coupons to be processed." *Id.* *Sheehan* does not provide an enabling disclosure as to how electronic coupons would be processed at checkout, other than checking a centralized database during a credit check. In light of the teachings of *Sheehan*, a skilled artisan would have to engage in undue experimentation to yield the claimed computerized checkout system, which recites a specific, non-obvious way of automatically applying an appropriate price adjustment by using "an incentive database that links the incentive code to the multiple incentive items." For at least this reason, claim 22 is patentable in light of the proposed combination.

Claim 28 recites that "the computerized checkout system applies an appropriate price adjustment when each of (i) the weighed item product code, (ii) a product code of at least one of the incentive items and (iii) the incentive code are read by the code reader during a customer checkout transaction, where the computerized checkout system utilizes the incentive code to identify the plurality of incentive items and to determine which of the plurality of incentive items was included in the customer checkout transaction." Applicants traverse the Examiner's arguments in support of the obviousness of claim 28. *Sheehan* does not disclose or suggest applying price adjustments by reading the three claimed codes: (i) a weighed item product code, (ii) a product code of at least one of the incentive items and (iii) an incentive code. The Examiner's alleged teachings of one skilled in the art fail to make up for this deficiency. The

Examiner posits that "[i]t would have been obvious to one of ordinary skill at the time of the invention to have used any scannable code (such as the originating identifier for the weighed product, or a single incentive barcode) as a means to identify any number of related child coupons (cream cheese, etc) associated with the originating qualifying product (bagels)." (Office Action, p. 7, emphasis added.) The Examiner posits that a single incentive code is beneficial, and was known to one of ordinary skill in the art at the time the claimed invention was made. Even if this statement is supported by facts, claim 28 requires the reading of three codes. For at least this reason, claim 28 is patentable in light of the proposed combination.

Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, Applicants may not have addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by Applicants to any of the Examiner's positions does not constitute a concession to the Examiner's positions. The fact that Applicants' comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. Applicants submit that all of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

The three month Petition fee of \$1,110 is being charged to Deposit Account No. 02-3978 via electronic authorization submitted concurrently herewith. The Commissioner is hereby authorized to charge any additional fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

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